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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ELPENIKE EDDY-ALDAVA, an individual,) CASE NO.: 2:23-cv-01660-JCM-MDC

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.
d/b/a SMITH'S FOOD AND DRUG, a
foreign corporation; DOES I through X; and
ROE ENTITIES I through X.

Defendants

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

SECOND REQUEST

STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES

There is good cause for this Stipulation in accordance with Local R. 26-3 (requiring that a “stipulation to extend any date set by the discovery plan, scheduling order, or other order... must be supported by a showing of good cause for the extension”).

The Parties in this case have been working diligently to gather medical records, conduct depositions, and engage in other meaningful discovery. However, despite these efforts to move the case forward, one of Plaintiff's experts has requested an additional two weeks to complete his expert report in time for disclosure pursuant to Fed. R. Civ. P. 26(a)(2). As such, the Parties seek a modest 14-day extension of current deadlines in this case in

1 **IT IS HEREBY STIPULATED** by and between Plaintiff ELPENIKE EDDY-
 2 ALDAVA (hereinafter “Plaintiff”), by and through her counsel of record, DAVID A.
 3 TANNER, ESQ. and JEFFREY C. GUNN, ESQ. of the law firm of TANNER LAW FIRM, and
 4 Defendant SMITH’S FOOD & DRUG CENTERS, INC. (hereinafter “SMITH’S”), by and
 5 through its counsel of record, JERRY S. BUSBY, ESQ. and POOJA KUMAR, ESQ. of the law
 6 firm of COOPER LEVENSON, P.A., that all deadlines be extended by fourteen (14) days, as
 7 set forth below, to allow the Parties time to complete necessary discovery prior to trial.

8 **I. STATEMENT SPECIFYING DISCOVERY THAT HAS BEEN COMPLETED**

9 To date, the Parties have completed the following discovery:

- 10 • Plaintiff has served her FRCP 26(a)(1) initial disclosure statement and two supplements
 thereto.
- 12 • SMITH’S has served its FRCP 26(a)(1) initial disclosure statement and erratum thereto.
- 13 • Both Parties have propounded written discovery requests upon each other pursuant to
 FRCP 33, 34, and 36.
- 15 • Both Parties have responded to propounded written discovery requests.
- 16 • The Parties have been collecting Plaintiff’s relevant medical records.
- 17 • SMITH’S has taken the deposition of Plaintiff.
- 18 • The Parties have conducted a site inspection of the area where the subject incident
 occurred.
- 20 • Plaintiff has taken the deposition of the FRCP 30(b)(6) representative of SMITH’S.
- 21 • Plaintiff has taken the deposition of percipient employee witness of SMITH’S.
- 22 • The Parties have met and conferred in good faith regarding reasonable discovery remaining
 to be completed and a reasonable timeline for the completion of remaining discovery.

24 **II. SPECIFIC DESCRIPTION OF DISCOVERY THAT REMAINS TO BE
 25 COMPLETED**

26 The Parties have yet to complete the following discovery:

- 1 • The Parties continue to collect Plaintiff's relevant medical records.
- 2 • The Parties intend to retain and designate initial and rebuttal expert witnesses.
- 3 • SMITH'S intends to depose Plaintiff's key medical providers.
- 4 • The Parties intend to depose disclosed expert witnesses.
- 5 • The Parties will assess the need for and, if appropriate, propound additional written
- 6 discovery requests.
- 7 • The Parties intend to serve supplements to written discovery responses and disclosures.
- 8 • The Parties will assess the need for additional discovery and conduct same accordingly.

9 **III. REASONS WHY DISCOVERY REMAINING WAS NOT COMPLETED**
10 **WITHIN DEADLINES CONTAINED IN DISCOVERY PLAN AND SCHEDULING**
11 **ORDER**

12 Since the last request for extension of discovery deadlines, the Parties have been moving
13 forward with discovery and are in the process of retaining experts and obtaining said experts'
14 reports for disclosure. However, Plaintiff retained an expert who has requested additional time
15 to complete his report containing his opinions. The Parties have worked in good faith to avoid
16 disruption to the applicable Discovery Plan and Scheduling Order as amended by this Court.
17 However, due to the aforementioned issue, the Parties respectfully request additional time to
18 complete adequate and vital discovery to prepare for trial. This is the Second such request, and
19 the request is for an additional fourteen (14) days of discovery.

20 **IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

21 As a result of the above, it is requested that the discovery deadlines in this case be
22 continued fourteen (14) days from their present deadlines, as follows:

- 23 1. **Discovery Cut-Off Date:** The Parties jointly propose that the discovery cut-off date be
24 extended fourteen (14) days from its present deadline of October 7, 2024, to **October 21, 2024**.
- 25 2. **Amending the Pleadings and Adding Parties:** This deadline was July 9, 2024, and has
26 already expired.

1 **3. Fed. R. Civ. P. 26(a)(2) Disclosure of Experts:** The Parties jointly propose that the initial
2 expert disclosure deadline be extended fourteen (14) days from its present deadline of August
3 8, 2024, to **August 22, 2024**; and the rebuttal expert disclosure deadline be extended fourteen
4 (14) days from its present deadline of September 9, 2024, to **September 23, 2024**.

5 **4. Dispositive Motions:** In the event that the discovery period is extended from the discovery
6 cut-off date set forth in the applicable Discovery Plan and Scheduling Order, the Parties jointly
7 propose that the date for filing dispositive motions be extended fourteen (14) days from its
8 present deadline of November 6, 2024, to **November 20, 2024**.

9 **5. Pre-Trial Order:** The Parties jointly propose that the date for filing the joint pre-trial order,
10 which is currently set for December 6, 2024, be extended fourteen (14) days to **December 20,**
11 **2024.** In the event that dispositive motions are filed, the Parties jointly propose that the date for
12 filing the joint pre-trial order be suspended until thirty (30) days after decision on dispositive
13 motions or until further Order of the Court. In the further event that the discovery period is
14 extended from the discovery cut-off date set forth in the applicable Discovery Plan and
15 Scheduling Order, the Parties jointly propose that the date for filing the joint pre-trial order be
16 extended in accordance with the time periods set forth in this Paragraph.

17 **6. Fed. R. Civ. P. 26(a)(3) Disclosure:** The disclosure required by FRCP 26(a)(3), and any
18 objections thereto, shall be included in the joint pre-trial order.

19 **7. Alternative Dispute Resolution:** Counsel for the Parties certify that they met and conferred
20 about the possibility of using alternative dispute resolution including mediation, arbitration,
21 and/or early neutral evaluation. The Parties have not scheduled any such ADR forum at this
22 point, but they agree to reconsider following additional or completion of discovery.

23 **8. Alternative Forms of Case Disposition:** The Parties certify that they discussed consenting to
24 trial by a magistrate judge or engaging in the Short Trial Program under FRCP 73 and, at
25 present, do not consent to either alternative form of case disposition.

1 9. **Electronic Evidence:** The Parties certify that they have discussed and intend to use
2 electronic evidence at the trial of this matter and will ensure that said evidence is in an
3 electronic format compatible with the Court's electronic jury evidence display system. At
4 present, the Parties have not agreed upon any stipulations regarding the use of electronic
5 evidence but will address this issue again in the joint pre-trial order.

6 10. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any
7 stipulation or motion must be made no later than twenty-one (21) days before the subject
8 deadline. Requests to extend discovery deadlines must comply fully with LR 26-3.

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IT IS SO STIPULATED.

10 DATED this 1st day of August, 2024.
11 **TANNER LAW FIRM**



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21 *Attorneys for Plaintiff,*
22 *Elpenike Aldava*

23 DATED this 1st day of August, 2024.
24 **COOPER LEVENSON, P.A.**

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27
28 */s/ Pooja Kumar*

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31 JERRY S. BUSBY, ESQ.
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40 *Smith's Food & Drug Centers, Inc.*

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IT IS SO ORDERED.

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44 Hon. Maximiliano D. Couvillier III
45 UNITED STATES MAGISTRATE JUDGE
46 DATE: 8/6/2024